

Senate Study Bill 3085 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
PUBLIC HEALTH BILL)

A BILL FOR

1 An Act relating to programs and activities under the purview of
2 the department of public health, providing for a penalty,
3 and including effective and applicability date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

BURIAL TRANSIT PERMIT

Section 1. Section 144.32, Code 2011, is amended to read as follows:

144.32 Burial transit permit.

1. If a person other than a funeral director, medical examiner, or emergency medical service assumes custody of a dead body or fetus, the person shall secure a burial transit permit. To be valid, the burial transit permit ~~must~~ shall be issued by the county medical examiner, a funeral director, ~~or the county registrar of the county where the certificate of death or fetal death was filed~~ occurred, or the state registrar. The permit shall be issued only upon presentation of a completed certificate of death or fetal death. The permit shall be obtained prior to the removal of the body or fetus from the place of death and the permit shall accompany the body or fetus to the place of final disposition.

2. To transfer a dead body or fetus outside of this state, the funeral director who first assumes custody of the dead body or fetus shall obtain a burial transit permit prior to the transfer. The permit shall accompany the dead body or fetus to the place of final disposition.

3. A dead body or fetus brought into this state for final disposition shall be accompanied by a burial transit permit under the law of the state in which the death occurred.

4. A burial transit permit shall not be issued to a person other than a funeral director when the cause of death is or is suspected to be a communicable disease as defined by rule of the department.

DIVISION II

RADIOLOGICAL HEALTH

Sec. 2. Section 136C.3, subsection 2, Code 2011, is amended to read as follows:

2. Establish minimum training standards including continuing education requirements, and administer examinations

1 and disciplinary procedures for operators of radiation machines
2 and users of radioactive materials. A state of Iowa license
3 to practice medicine, osteopathic medicine, chiropractic,
4 podiatry, dentistry, dental hygiene, or veterinary medicine, or
5 licensure as a physician assistant pursuant to chapter 148C, or
6 certification by the dental board in dental radiography, ~~or by~~
7 ~~the board of podiatry in podiatric radiography,~~ or enrollment
8 in a program or course of study approved by the Iowa department
9 ~~of public health~~ which includes the application of radiation to
10 humans or animals satisfies the minimum training standards for
11 operation of radiation machines only.

12 Sec. 3. Section 136C.3, subsection 5, Code 2011, is amended
13 to read as follows:

14 5. Issue orders as necessary in connection with licensing
15 and registration of radiation machines and radioactive
16 materials and the operators or users thereof.

17 Sec. 4. Section 136C.8, Code 2011, is amended to read as
18 follows:

19 **136C.8 Inspections.**

20 The department ~~shall~~ may inspect all radiation machines and
21 radioactive materials located in this state, for the purpose of
22 detecting, abating, or eliminating excessive radiation exposure
23 hazards. The inspection shall include but shall not be limited
24 to an evaluation of the ~~radiation machine or radioactive~~
25 ~~material as well as the~~ immediate environment to ensure that
26 in using the machines or materials all unnecessary hazards for
27 patients, personnel, and other persons who may be exposed to
28 radiation produced by the machine or materials are avoided.
29 ~~The inspection shall also include an evaluation of electrical~~
30 ~~hazards as well as the adequacy of mechanical supporting and~~
31 ~~restraining devices.~~ All defects and deficiencies noted by
32 the inspector shall be fully disclosed and discussed with the
33 responsible persons at the time of inspection. The department
34 shall establish rules prescribing operating procedures for
35 radiation machines and radioactive materials which ensure

1 minimum radiation exposure to patients, personnel, and other
2 persons in the immediate environment.

3 Sec. 5. Section 136C.14, subsection 2, Code 2011, is amended
4 to read as follows:

5 2. A person, other than a licensed professional, who
6 operates a radiation machine or uses radioactive materials
7 for medical treatment or diagnostic purposes shall ~~display~~
8 make available upon request the credentials which indicate
9 that person's qualification to operate the machine or use the
10 materials ~~in the immediate vicinity of the machine or where~~
11 ~~the materials are stored.~~ A person who owns or controls the
12 machine or materials ~~is also responsible for the proper display~~
13 ~~of credentials of those who operate the machine or use the~~
14 ~~materials and~~ shall not employ a person to operate the machine
15 or use the materials for medical treatment or diagnostic
16 purposes except as provided in this section.

17 Sec. 6. Section 136D.2, subsections 4 and 5, Code 2011, are
18 amended to read as follows:

19 4. "*Tanning device*" means any equipment that emits
20 electromagnetic radiation with wavelengths in the air between
21 200 and 400 nanometers and that is used for tanning of human
22 skin, such as ~~sunlamps,~~ tanning booths, or tanning beds.
23 ~~The term also includes any accompanying equipment such as~~
24 ~~protective eyewear, timers, and handrails.~~

25 5. "*Tanning facility*" means ~~a place that provides access~~
26 ~~to tanning devices for compensation~~ location, place, area,
27 structure, or business, or a part thereof, which provides
28 access to a tanning device for compensation. "*Tanning facility*"
29 may include but is not limited to a tanning salon, health club,
30 apartment, and condominium.

31 Sec. 7. Section 136D.8, subsection 2, Code 2011, is amended
32 by striking the subsection.

33 Sec. 8. NEW SECTION. 136D.9 Penalties.

34 1. A person who operates or uses a tanning device or tanning
35 facility in violation of this chapter or of any rule adopted

1 pursuant to this chapter is guilty of a simple misdemeanor.

2 2. In addition to criminal penalties, the department may
3 impose a civil penalty not to exceed one thousand dollars
4 on a person who violates a provision of this chapter, a
5 rule adopted or order issued under this chapter, or a term,
6 condition, or limitation of a registration certificate issued
7 pursuant to this chapter, or who commits a violation for which
8 a registration certificate may be revoked under rules issued
9 pursuant to this chapter. Each day of continuing violation
10 constitutes a separate offense in computing the civil penalty.

11 3. The department shall notify a person of the intent to
12 impose a civil penalty against the person. The department
13 shall establish the notification process to include an
14 opportunity for the person to respond in writing, within a
15 reasonable time as the department shall establish by rule,
16 regarding reasons why the civil penalty should not be imposed.

17 4. The department may compromise, mitigate, or refund a
18 civil penalty imposed under this section. A person upon whom
19 a civil penalty is imposed may appeal the action pursuant to
20 chapter 17A. The department shall remit moneys collected from
21 civil penalties to the treasurer of the state who shall deposit
22 the moneys in the general fund of the state.

23 DIVISION III

24 NURSING HOME ADMINISTRATORS

25 Sec. 9. Section 155.1, unnumbered paragraph 1, Code 2011,
26 is amended to read as follows:

27 For the purposes of this chapter, ~~and as used herein:~~

28 Sec. 10. Section 155.3, subsections 2 and 3, Code 2011, are
29 amended to read as follows:

30 2. The applicant has ~~satisfactorily completed a course of~~
31 ~~instruction and training prescribed by the board, which course~~
32 ~~shall be so designed as to content and so administered as to~~
33 ~~present sufficient knowledge of the needs properly to be served~~
34 ~~by nursing homes; knowledge of the laws governing the operation~~
35 ~~of nursing homes and the protection of the interests of~~

1 ~~patients therein; and knowledge of the elements of good nursing~~
2 ~~home administration; or has presented evidence satisfactory to~~
3 ~~the board of sufficient education, training, or experience in~~
4 ~~the foregoing fields to administer, supervise, and manage a~~
5 ~~nursing home.~~

6 3. The applicant has passed an examination administered
7 prescribed by the board and designed to test for competence in
8 ~~the subject matter referred to in subsection 2 of this section~~
9 pursuant to section 147.34.

10 Sec. 11. Section 155.4, Code 2011, is amended to read as
11 follows:

12 **155.4 Licensing function.**

13 The board shall license nursing home administrators in
14 accordance with this chapter, chapter 147, and rules issued,
15 ~~and from time to time revised, by it by the board.~~ A nursing
16 home administrator's license shall not be transferable and,
17 if not inactive, shall be valid until revoked pursuant to
18 section 147.55 or voluntarily surrendered for cancellation
19 ~~or suspended or revoked for violation of this chapter or any~~
20 ~~other laws or regulations relating to the proper administration~~
21 ~~and management of a nursing home. Any denial of issuance or~~
22 ~~renewal, suspension, or revocation under any section of this~~
23 ~~chapter shall be subject to judicial review in accordance with~~
24 ~~the terms of the Iowa administrative procedure Act, chapter~~
25 ~~17A.~~

26 Sec. 12. Section 155.5, Code 2011, is amended to read as
27 follows:

28 **155.5 License fees.**

29 Each person licensed as a nursing home administrator shall
30 be required to pay a license fee in an amount to be fixed by
31 the board. The license shall expire in multiyear intervals
32 determined by the board and be renewable and upon payment of
33 ~~the license a renewal~~ fee. A person who fails to renew a
34 license by the expiration date shall be allowed to do so within
35 thirty days following its expiration, but the board may assess

1 a reasonable penalty.

2 Sec. 13. Section 155.9, Code 2011, is amended to read as
3 follows:

4 **155.9 Duties of the board.**

5 ~~The~~ In addition to the duties and responsibilities provided
6 in chapters 147 and 272C, the board shall have the duty and
7 responsibility to:

8 ~~1. Develop, impose, and enforce standards which must be~~
9 ~~met by individuals in order to receive a license as a nursing~~
10 ~~home administrator, which standards shall be designed to~~
11 ~~insure that nursing home administrators will be individuals~~
12 ~~who, by training or experience in the field of institutional~~
13 ~~administration, are qualified to serve as nursing home~~
14 ~~administrators.~~

15 ~~2. Develop and apply appropriate techniques, including~~
16 ~~examination and investigations, for determining whether an~~
17 ~~individual meets such standards. The board may administer~~
18 ~~as many examinations per year as are necessary, but shall~~
19 ~~administer at least one examination per year. Any written~~
20 ~~examination may be given by representatives of the board.~~
21 ~~Applicants who fail the examination once shall be allowed to~~
22 ~~take the examination at the next scheduled time. Thereafter,~~
23 ~~the applicant shall be allowed to take the examination at the~~
24 ~~discretion of the board. An applicant who has failed the~~
25 ~~examination may request in writing information from the board~~
26 ~~concerning the applicant's examination grade and subject areas~~
27 ~~or questions which the applicant failed to answer correctly,~~
28 ~~except that if the board administers a uniform, standardized~~
29 ~~examination, the board shall only be required to provide the~~
30 ~~examination grade and such other information concerning the~~
31 ~~applicant's examination results which are available to the~~
32 ~~board.~~

33 ~~3. Issue licenses to individuals who, after application~~
34 ~~of such techniques, are found to have met such standards; and~~
35 ~~for cause and after due notice and hearing, revoke or suspend~~

1 ~~licenses previously issued by such board in any case where~~
2 ~~the individual holding such license is found to have failed~~
3 ~~substantially to conform to the requirements of such standards.~~
4 ~~The board may also accept the voluntary surrender of such~~
5 ~~license without necessity of a hearing. In adopt rules for~~
6 ~~granting a provisional license to an administrator appointed~~
7 ~~on a temporary basis by a nursing home's owner or owners in the~~
8 ~~event of the inability of the regular administrator of a the~~
9 ~~nursing home is unable to perform the administrator's duties~~
10 ~~or through death or other cause the nursing home is without~~
11 ~~a licensed administrator, a provisional administrator may be~~
12 ~~appointed on a temporary basis by the nursing home owner or~~
13 ~~owners to perform such duties for a period not to exceed one~~
14 ~~year because of death or other cause. Such provisional license~~
15 ~~shall allow the provisional licensee to perform the duties of~~
16 ~~a nursing home administrator. An individual shall not hold a~~
17 ~~provisional license for more than twelve total combined months,~~
18 ~~and the board may revoke or otherwise discipline a provisional~~
19 ~~licensee for cause after due notice and a hearing on a charge~~
20 ~~or complaint filed with the board.~~

21 ~~4. Establish and carry out procedures designed to insure~~
22 ~~that individuals licensed as nursing home administrators will,~~
23 ~~during any period that they serve as such, comply with the~~
24 ~~requirements of such standards.~~

25 ~~5. Receive, investigate, and take appropriate action with~~
26 ~~respect to any charge or complaint filed with the board to~~
27 ~~the effect that any individual licensed as a nursing home~~
28 ~~administrator has failed to comply with the requirements~~
29 ~~of such standards. Such appropriate action may include~~
30 ~~revocation of a license, if necessary, or placing the licensee~~
31 ~~on probation for a period not exceeding six months, and shall~~
32 ~~be taken only for cause after due notice and a hearing on the~~
33 ~~charge or complaint.~~

34 ~~6. Conduct a continuing study and investigation of nursing~~
35 ~~homes, and administrators of nursing homes, in this state~~

1 ~~with a view to the improvement of the standards imposed for~~
2 ~~the licensing of such administrators and of procedures and~~
3 ~~methods for the enforcement of such standards with respect to~~
4 ~~administrators of nursing homes who have been licensed as such.~~
5 ~~7. Conduct, or cause to be conducted, one or more courses of~~
6 ~~instruction and training sufficient to meet the requirements~~
7 ~~of this chapter, and make provisions for such courses and~~
8 ~~their accessibility to residents of this state unless it finds~~
9 ~~that there are, and approves, a sufficient number of courses,~~
10 ~~which courses are conducted by others within this state. In~~
11 ~~lieu thereof the board may approve courses conducted within~~
12 ~~and without this state as sufficient to meet the education and~~
13 ~~training requirements of this chapter.~~

14 Sec. 14. Section 155.10, Code 2011, is amended by striking
15 the section and inserting in lieu thereof the following:

16 **155.10 Continuing education.**

17 Each person licensed as a nursing home administrator shall
18 be required to complete continuing education as a condition of
19 license renewal. Such continuing education requirements shall
20 be determined by the board.

21 Sec. 15. Section 155.14, Code 2011, is amended to read as
22 follows:

23 **155.14 Applications.**

24 Applications for licensure and for license renewal shall be
25 on forms in the format prescribed and furnished by the board
26 and shall not contain a recent photograph of the applicant. An
27 applicant shall not be ineligible for licensure because of age,
28 citizenship, sex, race, religion, marital status or national
29 origin although the application may require citizenship
30 information. The board may consider the past felony record of
31 an applicant only if the felony conviction relates directly
32 to the practice of nursing home administration. Character
33 references may be required, but shall not be obtained from
34 licensed nursing home administrators.

35 Sec. 16. NEW SECTION. **155.19 Voluntary surrender.**

1 The board may accept the voluntary surrender of a license if
2 accompanied by a written statement of intention. The voluntary
3 surrender, when accepted, shall have the same force and effect
4 as an order of revocation.

5 Sec. 17. REPEAL. Sections 155.2, 155.15, and 155.16, Code
6 2011, are repealed.

7 DIVISION IV

8 HEARING AID DISPENSERS

9 Sec. 18. Section 154A.7, Code 2011, is amended to read as
10 follows:

11 **154A.7 ~~Meetings and expenses~~ Board meetings.**

12 ~~The members of the board shall receive actual expenses~~
13 ~~incurred in the discharge of their duties within the limits of~~
14 ~~funds appropriated to the board. Each member of the board may~~
15 ~~also be eligible to receive compensation as provided in section~~
16 ~~7E.6.~~ The board shall meet at least one time per year at the
17 seat of government and may hold additional meetings as deemed
18 necessary. Additional meetings shall be held at the call of
19 the chairperson or a majority of the members of the board.
20 ~~At any meeting of the board, a majority of the members shall~~
21 ~~constitute a quorum.~~

22 Sec. 19. Section 154A.10, Code 2011, is amended to read as
23 follows:

24 **154A.10 Issuance of licenses.**

25 ~~After January 1, 1975, an An applicant may obtain a license,~~
26 if the applicant:

27 1. Successfully passes the qualifying examination
28 prescribed in section 154A.12.

29 2. Is free of contagious or infectious disease.

30 3. Pays the necessary fees set by the board ~~pursuant to~~
31 ~~section 154A.17.~~

32 Sec. 20. Section 154A.12, subsection 1, paragraph a, Code
33 2011, is amended to read as follows:

34 a. ~~Written tests~~ Evidence of knowledge in areas such as
35 physics of sound, anatomy and physiology of hearing, and the

1 function of hearing aids, as these areas pertain to the fitting
2 or selection and sale of hearing aids.

3 Sec. 21. Section 154A.13, Code 2011, is amended to read as
4 follows:

5 **154A.13 Temporary permit.**

6 A person who has not been ~~employed~~ licensed as a hearing
7 aid dispenser ~~prior to January 1, 1975,~~ may obtain a temporary
8 permit from the department upon completion of the application
9 accompanied by the written verification of employment from a
10 licensed hearing aid dispenser. The department shall issue a
11 temporary permit for one year which shall not be renewed or
12 reissued. The fee for issuance of the temporary permit shall
13 be set by the board ~~pursuant to section 154A.17 in accordance~~
14 with the provisions for establishment of fees in section
15 147.80. The temporary permit entitles an applicant to engage
16 in the fitting or selection and sale of hearing aids under the
17 supervision of a person holding a valid license.

18 Sec. 22. Section 154A.23, Code 2011, is amended to read as
19 follows:

20 **154A.23 ~~Complaints~~ Disciplinary orders — attorney general.**

21 ~~Any person wishing to make a complaint against a licensee~~
22 ~~or holder of a temporary permit shall file a written statement~~
23 ~~with the board within twelve months from the date of the action~~
24 ~~upon which the complaint is based. If the board determines~~
25 ~~that the complaint alleges facts which, if proven, would be~~
26 ~~cause for the suspension or revocation of the license of the~~
27 ~~licensee or the permit of the holder of a temporary permit,~~
28 ~~it shall make an order fixing a time and place for a hearing~~
29 ~~and requiring the licensee or holder of a temporary permit~~
30 ~~complained against to appear and defend. The order shall~~
31 ~~contain a copy of the complaint, and the order and copy of~~
32 ~~the complaint shall be served upon the licensee or holder~~
33 ~~of a temporary permit at least twenty days before the date~~
34 ~~set for hearing, either personally or as provided in section~~
35 ~~154A.21. Continuance or adjournment of a hearing date may be~~

1 ~~made for good cause. At the hearing the licensee or holder~~
2 ~~of a temporary permit may be represented by counsel. The~~
3 ~~licensee or holder of a temporary permit and the board may take~~
4 ~~depositions in advance of hearing and after service of the~~
5 ~~complaint, and either may compel the attendance of witnesses~~
6 ~~by subpoenas issued by the board. The board shall issue such~~
7 ~~subpoenas at the request of a licensee or holder of a temporary~~
8 ~~permit. Either party taking depositions shall give at least~~
9 ~~five days' written notice to the other party of the time and~~
10 ~~place of such depositions, and the other party may attend, with~~
11 ~~counsel, if desired, and cross-examine.~~

12 ~~If the board determines from the evidence and proofs~~
13 ~~submitted that the licensee or holder of a temporary permit is~~
14 ~~guilty of violating any of the provisions of this chapter, or~~
15 ~~any of the regulations promulgated by the board pursuant to~~
16 ~~this chapter, the department shall, within thirty days after~~
17 ~~the hearing, issue an order refusing to issue or renew, or~~
18 ~~revoking or suspending, as the case may be, the hearing aid~~
19 ~~dispenser's license or temporary permit. The order shall~~
20 ~~include the findings of fact and the conclusions of law made by~~
21 ~~the board and counsel. A copy of the order shall be sent to the~~
22 ~~licensee or holder of a temporary permit by registered mail.~~
23 ~~The records of the department shall reflect the action taken~~
24 ~~by the board on the charges, and the department shall preserve~~
25 ~~a record of the proceedings in a manner similar to that used by~~
26 ~~courts of record in this state.~~

27 ~~The final order of the board in the proceedings may be~~
28 ~~appealed to the district court of the county where the licensee~~
29 ~~or holder of a temporary permit resides, or in which the~~
30 ~~licensed hearing aid dispenser's principal place of business~~
31 ~~is located.~~

32 ~~The department shall send a copy of the complaint and~~
33 ~~a copy of the board's final order to the attorney general~~
34 ~~for purposes of information in the event the licensee or~~
35 ~~holder of a temporary permit pursues a court appeal and for~~

1 ~~consideration as to whether the violations are flagrant enough~~
2 ~~to justify prosecution.~~ The board shall forward a copy of
3 all final disciplinary orders, with associated complaints,
4 to the attorney general for consideration for prosecution or
5 enforcement when warranted. The attorney general and all
6 county attorneys shall assist the board and the department in
7 the enforcement of the provisions of this chapter.

8 Sec. 23. REPEAL. Sections 154A.2, 154A.3, 154A.4, 154A.5,
9 154A.6, 154A.8, 154A.9, 154A.11, 154A.14, 154A.15, 154A.17, and
10 154A.18, Code 2011, are repealed.

11 DIVISION V

12 LOCAL BOARDS OF HEALTH

13 Sec. 24. Section 135.1, subsection 6, Code 2011, is amended
14 by striking the subsection.

15 Sec. 25. Section 137.112, Code 2011, is amended by adding
16 the following new subsection:

17 NEW SUBSECTION. 4. This section does not apply to any
18 district board of health or district health department in
19 existence prior to July 1, 2010.

20 Sec. 26. Section 331.502, subsection 8, Code 2011, is
21 amended by striking the subsection.

22 Sec. 27. REPEAL. Section 135.32, Code 2011, is repealed.

23 Sec. 28. EFFECTIVE UPON ENACTMENT. The following provision
24 or provisions of this division of this Act, being deemed of
25 immediate importance, take effect upon enactment:

26 1. The section of this Act amending section 137.112.

27 Sec. 29. RETROACTIVE APPLICABILITY. The following
28 provision or provisions of this division of this Act apply
29 retroactively to July 1, 2010:

30 1. The section of this Act amending section 137.112.

31 DIVISION VI

32 GOVERNOR'S COUNCIL ON PHYSICAL FITNESS AND NUTRITION

33 Sec. 30. NEW SECTION. 135.27A **Governor's council on**
34 **physical fitness and nutrition.**

35 1. A governor's council on physical fitness and nutrition

1 is established consisting of twelve members appointed by the
2 governor who have expertise in physical activity, physical
3 fitness, nutrition, and promoting healthy behaviors. At
4 least one member shall be a representative of elementary
5 and secondary physical education professionals, at least
6 one member shall be a health care professional, at least
7 one member shall be a registered dietician, at least one
8 member shall be recommended by the department on aging, and
9 at least one member shall be an active nutrition or fitness
10 professional. In addition, at least one member shall be a
11 member of a racial or ethnic minority. The governor shall
12 select a chairperson for the council. Members shall serve
13 terms of three years beginning and ending as provided in
14 section 69.19. Appointments are subject to sections 69.16
15 and 69.16A. Members are entitled to receive reimbursement for
16 actual expenses incurred while engaged in the performance of
17 official duties. A member of the council may also be eligible
18 to receive compensation as provided in section 7E.6.

19 2. The council shall assist in developing a strategy for
20 implementation of the statewide comprehensive plan developed
21 by the existing statewide initiative to increase physical
22 activity, improve physical fitness, improve nutrition, and
23 promote healthy behaviors. The strategy shall include specific
24 components relating to specific populations and settings
25 including early childhood, educational, local community,
26 worksite wellness, health care, and older Iowans.

27 3. The council shall assist the department in establishing
28 and promoting a best practices internet site. The internet
29 site shall provide examples of wellness best practices for
30 individuals, communities, workplaces, and schools and shall
31 include successful examples of both evidence-based and
32 nonscientific programs as a resource.

33 4. The council shall provide oversight for the governor's
34 physical fitness challenge. The governor's physical fitness
35 challenge shall be administered by the department and shall

1 provide for the establishment of partnerships with communities
2 or school districts to offer the physical fitness challenge
3 curriculum to elementary and secondary school students. The
4 council shall develop the curriculum, including benchmarks and
5 rewards, for advancing the school wellness policy through the
6 challenge.

7 Sec. 31. RETROACTIVE APPLICABILITY. This division of this
8 Act applies retroactively to January 1, 2012.

9 Sec. 32. EFFECTIVE UPON ENACTMENT. This division of this
10 Act, being deemed of immediate importance, takes effect upon
11 enactment.

12 DIVISION VII

13 HIV CONFIDENTIALITY

14 Sec. 33. Section 141A.9, Code Supplement 2011, is amended by
15 adding the following new subsection:

16 NEW SUBSECTION. 8. Medical information secured pursuant
17 to subsection 1 may be shared with other state or federal
18 agencies, with employees or agents of the department, or with
19 local units of government that have a need for the information
20 in the performance of their duties related to HIV prevention,
21 disease surveillance, or care of persons with HIV, only as
22 necessary to administer the program for which the information
23 is collected or to administer a program within the other
24 agency. Confidential information transferred to other persons
25 or entities under this subsection shall continue to maintain
26 its confidential status and shall not be rereleased by the
27 receiving person or entity.

28 DIVISION VIII

29 REPEAL OF REPORTING REQUIREMENTS

30 Sec. 34. REPEAL. Section 135.165, Code 2011, is repealed.

31 EXPLANATION

32 This bill relates to programs and activities under the
33 purview of the department of public health (DPH).

34 Division I relates to the list of people who may issue
35 a burial transit permit. The bill provides that the state

1 registrar of vital statistics may issue a burial transit
2 permit. The bill adds that a burial transit permit may not be
3 issued until a completed certificate of death or fetal death is
4 presented. The bill also states the county registrar of the
5 county where the death or fetal death occurred, rather than
6 where the certificate of death was filed, may issue a burial
7 transit permit.

8 Division II relates to radiological health. The bill
9 provides that a certification by the board of podiatry in
10 podiatric radiography does not satisfy the minimum training
11 standards and continuing education requirements for operation
12 of radiation machines. The bill also provides that enrollment
13 in a program of study approved by the DPH which includes
14 application of radiation to animals satisfies the minimum
15 training standards for operating radiation machines. This
16 would allow veterinary students to practice without a permit
17 while enrolled in a training program.

18 The bill allows the department to regulate the operators of
19 radiation machines and users of radioactive material. The bill
20 makes the department's inspection of all radiation machines
21 and radioactive materials in the state permissive rather than
22 mandatory. The bill provides the department is no longer
23 required to evaluate the radiation machine or radioactive
24 material, the electrical hazards, or the adequacy of mechanical
25 supporting and restraining devices.

26 The bill amends Code section 136C.14 to state that a person
27 other than a licensed professional who operates a radiation
28 machine or uses radioactive materials for medical treatment
29 or diagnostic purposes does not need to display his or her
30 credentials, but the person must provide credentials upon
31 request. The bill also provides that a person who owns or
32 controls the machine is no longer responsible for the proper
33 display of such credentials.

34 The bill amends the definitions for "tanning device" and
35 "tanning facility". The bill eliminates language stating that

1 "tanning device" includes accompanying equipment. The bill
2 eliminates the current definition for a tanning facility and
3 provides that a "tanning facility" is not only a place for
4 providing access to tanning devices for compensation, but
5 also includes a place, area, structure, or business, or any
6 part thereof, that provides access to tanning devices for
7 compensation. The bill specifies that a tanning facility may
8 include but is not limited to a tanning salon, health club,
9 apartment, or condominium.

10 The bill inserts a penalty section into Code chapter 136 and
11 provides for the imposition of a civil penalty not to exceed
12 \$1,000 on persons who violate a provision of the Code chapter,
13 a rule or order issued pursuant to the Code chapter, or a term,
14 condition, or limitation of a registration certificate issued
15 under the Code chapter. A civil penalty could also be imposed
16 on a person who commits a violation for which a registration
17 certificate may be revoked under the rules issued pursuant
18 to the Code chapter. Each day of a continuing violation
19 constitutes a separate offense for purposes of computing the
20 civil penalty. The department must establish a notification
21 process which includes an opportunity for the person facing the
22 civil penalty to respond in writing within a reasonable time
23 as set by the department. A person upon whom a civil penalty
24 is imposed may appeal pursuant to Code chapter 17A. The bill
25 also allows the department to compromise, mitigate, or refund a
26 civil penalty. The department must remit the penalty to the
27 treasurer of state who shall deposit the money into the general
28 fund of the state.

29 Division III relates to nursing home administrators. The
30 bill eliminates certain provisions in the Code chapter that are
31 duplicative or inconsistent with the provisions in Code chapter
32 147, relating to health-related professions generally. The
33 bill eliminates the requirement that an applicant for a nursing
34 home administrator license satisfactorily complete a course of
35 instruction and training that was designed and administered

1 to present sufficient knowledge of the needs properly to be
2 served by nursing homes, knowledge of the laws governing the
3 operation of nursing homes and the protection of the interests
4 of patients, and knowledge of the elements of good nursing home
5 administration. The bill amends Code section 155.3 to state
6 that the board of nursing home administrators prescribes the
7 examination pursuant to Code section 147.34, which governs
8 the examinations required for licensure for health care
9 professions, rather than administering the exam that tests
10 for competence in the needs properly to be served by nursing
11 homes, laws governing the operation of nursing homes and the
12 protection of the interests of patients, and the elements of
13 good nursing home administration.

14 The bill adds that the board shall license nursing home
15 administrators in accordance with the rules as well as Code
16 chapters 147 and 155. The bill makes technical changes
17 regarding the terminology of a licensee's voluntary or
18 involuntary loss of license and refers to Code section 147.55
19 for revocation of a nursing home administrator's license while
20 eliminating language in Code section 155.4 subjecting any
21 denial of issuance or renewal, suspension, or revocation under
22 Code chapter 155 to the judicial review procedure under Code
23 chapter 17A.

24 The bill makes technical changes to the licensing fees
25 provision. The bill allows the board to determine the
26 multiyear interval in which a license shall expire and allows
27 for the license to be renewed upon payment of a renewal fee
28 rather than a license fee.

29 The bill provides that the board has the general duties
30 and responsibilities for health-related boards listed in Code
31 chapters 147 and 272C and strikes the board's specific duties
32 relating to standards to be met by individuals in order to
33 receive licenses as nursing home administrators; techniques for
34 determining whether an individual meets the required standards;
35 the issuance of and disciplinary actions relating to licenses;

1 and complaints against nursing home administrators. The bill
2 removes language allowing the board to conduct a continuing
3 study and investigation of nursing homes and administrators in
4 the state to improve the standards. The bill strikes language
5 allowing the board to conduct or cause to be conducted courses
6 of instruction and training sufficient to meet the requirements
7 of Code chapter 155.

8 The bill retains language in Code section 155.9 that allows
9 the board to establish rules to grant a provisional license to
10 an administrator, but makes technical changes. The bill allows
11 the board to grant a provisional license to an administrator
12 appointed on a temporary basis by a nursing home's owner
13 if the regular administrator is unable to perform the
14 administrator's duties or the nursing home is otherwise without
15 an administrator for some other reason. The bill strikes a
16 provision which states that an administrator appointed on a
17 temporary basis could not perform the duties for a period which
18 exceeds one year. The bill provides that a provisional license
19 can be held for no more than 12 combined months and the board
20 may revoke or otherwise discipline a person with a provisional
21 license for cause after due notice and a hearing.

22 The bill strikes the language in Code section 155.10
23 regarding renewal of licenses. Under the bill, Code chapter
24 272C would control the renewal of licenses. The bill provides
25 that a licensed nursing home administrator must complete
26 continuing education as a condition precedent for a license
27 renewal. The bill states the board will determine the
28 continuing education requirements.

29 The bill provides that applications for license renewal
30 shall be prescribed by the board. Under the amended language
31 of Code section 155.14, the bill states the board is not
32 required to furnish forms for licensure or license renewal.
33 The bill strikes the language regarding the characteristics the
34 board may consider when receiving an applicant's application.
35 Under the bill the characteristics to consider for eligibility

1 would be controlled by Code section 147.3.

2 The bill also adds a section to Code chapter 155 regarding a
3 licensee's voluntary surrender of a license. The bill states
4 the board may accept a voluntary surrender if it is accompanied
5 by a written statement of intention. The voluntary surrender
6 will have the same force and effect as revocation after the
7 surrender is accepted.

8 The bill repeals the language regarding the composition
9 of the board of nursing home administrators. The board's
10 composition is governed by Code sections 147.12 through 147.20
11 and 147.82. The bill repeals the language in section 155.15
12 regarding the fees for examination, licensure, and renewal of
13 licensure. The language in Code section 147.80 would control.
14 The bill also repeals language in Code section 155.16 regarding
15 the public members of the board, making the language in Code
16 section 147.21 applicable.

17 Division IV relates to hearing aid dispensers. The bill
18 eliminates certain provisions within Code chapter 154A as Code
19 chapter 147 regarding health-related professions now governs
20 the board of hearing aid dispensers in its provisions.

21 The bill eliminates language in Code section 154A.7
22 regarding board members' expenses for discharging duties and
23 members' eligibility to receive compensation provided in Code
24 section 7E.6. The bill also eliminates language in Code
25 section 154A.7 regarding a quorum. The language on board
26 members' expenses and compensation is provided in Code section
27 147.24 and the language on a board quorum is provided by Code
28 section 147.14(2).

29 The bill eliminates language regarding the date on which an
30 applicant may obtain a license and deletes the reference to the
31 fee provision in Code section 154A.17.

32 The bill amends Code section 154A.12 regarding the scope of
33 examination to require evidence, rather than a written test, of
34 the applicant's knowledge in areas such as physics of sound,
35 anatomy and physiology of hearing, and function of hearing

1 aids.

2 The bill amends Code section 154A.13 regarding temporary
3 permits and states that only an individual who has not been
4 licensed as a hearing aid dispenser, rather than a person who
5 has not been employed as a hearing aid dispenser, may obtain
6 a temporary permit. The bill also states that a fee for a
7 temporary permit will be set by the board pursuant to Code
8 section 147.80 rather than Code section 154A.17, which is
9 repealed under this bill.

10 The bill removes language from Code chapter 154A regarding
11 the process for filing a complaint against a licensee or holder
12 of a temporary permit, the hearing process, the required
13 elements of a board's order, the notice of the order, and the
14 right to appeal the board's final order. Under the bill,
15 complaints would be governed by Code chapters 17A, 147, and
16 272C. The bill amends Code section 154A.23 to allow the board
17 to forward a copy of final disciplinary orders along with
18 the complaint to the attorney general for consideration for
19 prosecution or enforcement when warranted.

20 The bill repeals Code section 154A.2 regarding the
21 establishment of the board; Code section 154A.3 regarding
22 terms of board members; Code section 154A.4 regarding duties
23 of the board; Code section 154A.5 regarding public members
24 of the board; Code section 154A.6, regarding disclosure of
25 confidential information (the governing provision in Code
26 section 147.21(2) does not contain a provision which prohibits
27 the disclosure of an applicant's criminal history); Code
28 section 154A.8 regarding duties of the board; Code section
29 154A.9 regarding applications for licensure; Code section
30 154A.11 regarding examinations (however, the governing
31 provision in Code section 147.34 does not require examinations
32 to occur at least once a year and does not require the identity
33 of the applicant to be concealed until after the grading
34 of the exam); Code section 154A.14 concerning reciprocity;
35 Code section 154A.15 concerning license renewal (however,

1 Code section 147.10 does not require the department to mail
2 notice of the expiration date of a license at least a month
3 in advance); and Code section 154A.17 regarding fees. Code
4 section 154A.18, regarding the display of the license is
5 also repealed, however, Code sections 147.6 and 147.7 do not
6 prohibit a person from engaging in business as a hearing aid
7 dispenser or displaying a sign or advertising to be a hearing
8 aid dispenser without a valid license nor do the Code sections
9 require the license to be conspicuously posted in the person's
10 primary location of practice. The Code sections instead state
11 that a license is presumptive evidence of the right to practice
12 and a board may require every person licensed by the board to
13 publicly display the license and evidence of current renewal.

14 Division V relates to local boards of health. The bill
15 strikes the definition of "sanitation officer". The bill
16 states that the district public health fund budget provisions
17 do not apply to a district board of health or district health
18 department in existence prior to July 1, 2010. The bill
19 repeals the department's duty to publish and distribute
20 its rules to the counties. The bill provides an immediate
21 effective date and retroactive date for the application of
22 the provisions of the health fund budget only to the district
23 boards of health or district health departments in existence
24 prior to July 1, 2010.

25 Division VI relates to the governor's council on physical
26 fitness and nutrition. The bill reinstates the governor's
27 council on physical fitness and nutrition, which was repealed
28 by 2011 Iowa Acts, chapter 129, section 94. The bill provides
29 an immediate effective date for this division and retroactivity
30 to January 1, 2012.

31 Division VII relates to HIV confidentiality. The bill
32 adds a new provision allowing medical information secured
33 pursuant to Code section 141A.9 to be shared with other state
34 or federal agencies, employees or agents of the department, or
35 with local units of government. The information may be shared

1 when the persons or entities have a need for the information
2 in the performance of their duties related to HIV prevention,
3 disease surveillance, or care of persons with HIV and only as
4 necessary to administer the program for which the information
5 is collected or to administer a program within the other
6 agency. The confidential information transferred maintains its
7 confidential status and the receiving entity may not rerelease
8 the information.

9 Division VIII relates to reporting requirements for
10 hospitals and nursing facilities. The bill repeals Code
11 section 135.165, which requires hospitals and nursing
12 facilities that are recognized by the Internal Revenue Code as
13 a nonprofit organization or entity to annually submit a copy
14 of the internal revenue service form 990 to the department of
15 public health and the legislative services agency.